

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - - X

UNITED STATES OF AMERICA

- v. -

FRANK GILLETTE,

Defendant.

:
:
: CONSENT PRELIMINARY ORDER
: OF FORFEITURE/
: MONEY JUDGMENT
:
: 18 Cr. 22 (LGS)

- - - - - X

WHEREAS, on or about January 11, 2018, FRANK GILLETTE (the "defendant"), was charged in an Indictment, 18 Cr. 22 (LGS) (the "Indictment"), with conspiracy to commit mail fraud, in violation of 18 U.S.C. § 1349 and 42 U.S.C. § 5122(2);

WHEREAS, the Indictment included a forfeiture allegation as to Count One, seeking forfeiture to the United States, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), of any and all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of said offenses, including but not limited a sum of money in United States currency representing the amount of proceeds traceable to the commission of said offenses that the defendant personally obtained;

WHEREAS, on or about November 2, 2018, the defendant pled guilty to Count One, pursuant to a plea agreement with the Government, wherein the defendant admitted the forfeiture allegation with respect to Count One and agreed to forfeit to the United States, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C.

\$ 2461(c), a sum of money equal to \$40,494.37 in United States currency, representing proceeds traceable to the commission of the offense alleged in Count One;

WHEREAS, the defendant consents to the entry of a money judgment in the amount of \$40,494.37 in United States currency representing the amount of proceeds traceable to the offense charged in Count One of the Indictment that the defendant personally obtained; and

WHEREAS, the defendant admits that, as a result of acts and/or omissions of the defendant, the proceeds traceable to the offense charged in Count One of the Indictment that the defendant personally obtained cannot be located upon the exercise of due diligence.

IT IS HEREBY STIPULATED AND AGREED, by and between the United States of America, by its attorney Geoffrey S. Berman, United States Attorney, Assistant United States Attorney, Jason Swergold of counsel, and the defendant, and his counsel, Aaron Mysliwicz, Esq., that:

1. As a result of the offense charged in Count One of the Indictment, to which the defendant pled guilty, a money judgment in the amount of \$40,494.37 in United States currency (the "Money Judgment"), representing the amount of proceeds traceable to the offense charged in Count One of the Indictment

that the defendant personally obtained, shall be entered against the defendant.

2. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Consent Preliminary Order of Forfeiture/Money Judgment is final as to the defendant, FRANK GILLETTE, and shall be deemed part of the sentence of the defendant, and shall be included in the judgment of conviction therewith.

3. All payments on the outstanding money judgment shall be made by postal money order, bank or certified check, made payable, in this instance, to the United States Customs and Border Protection, and delivered by mail to the United States Attorney's Office, Southern District of New York, Attn: Money Laundering and Asset Forfeiture Unit, One St. Andrew's Plaza, New York, New York 10007 and shall indicate the defendant's name and case number.

4. United States Customs and Border Protection is authorized to deposit the payment on the Money Judgment in the Treasury Assets Forfeiture Fund, and the United States shall have clear title to such forfeited property.

5. Pursuant to 21 U.S.C. § 853(p), the United States is authorized to seek forfeiture of substitute assets of the defendant up to the uncollected amount of the Money Judgment.

6. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, the United States Attorney's Office is authorized to conduct any discovery needed to identify, locate or dispose of forfeitable property, including depositions, interrogatories, requests for production of documents and the issuance of subpoenas.

7. The Court shall retain jurisdiction to enforce this Consent Preliminary Order of Forfeiture/Money Judgment, and to amend it as necessary, pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure.

8. The Clerk of the Court shall forward three certified copies of this Consent Preliminary Order of Forfeiture/Money Judgment to Assistant United States Attorney Alexander J. Wilson, Chief of the Money Laundering and Asset Forfeiture Unit, United States Attorney's Office, One St. Andrew's Plaza, New York, New York 10007.

[CONTINUED ON NEXT PAGE]

9. The signature page of this Consent Preliminary Order of Forfeiture/Money Judgment may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

AGREED AND CONSENTED TO:

GEOFFREY S. BERMAN
United States Attorney for the
Southern District of New York

By: 

JASON SWERGOLD
Assistant United States Attorney
One St. Andrew's Plaza
New York, NY 10007
(212) 637-1023

11/2/18
DATE

FRANK GILLETTE

By: 

FRANK GILLETTE


11/2/18
DATE

By: 

AARON MYSLIWIEC, ESQ.
Attorney for Defendant
Miedel & Mysliwicz LLP
80 Broad Street, Suite 1900
New York, NY 10004
Tel.: (212) 616-3046

11/2/18
DATE

SO ORDERED:


HONORABLE LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE

11/14/2019
DATE